

**Submission
No 107**

INQUIRY INTO LOCAL GOVERNMENT IN NEW SOUTH WALES

Organisation: Central Coast Greens

Date received: 5/07/2015

The Hon. Paul Green, Chair
Inquiry into Local Government in New South Wales
The General Purpose Standing Committee No. 6
New South Wales Legislative Council

Dear Mr. Green,

Re: Submission to Inquiry into Local Government in New South Wales

I am pleased to make a submission on behalf of the **Central Coast Greens** to the Committee's inquiry into local government.

This submission addresses selected aspects of the inquiry's reference terms as follows;

a) the New South Wales Government's "Fit for the Future" reform agenda:

We acknowledge that this reform package follows a lengthy and broader reform process that commenced in 2011 with the "Destination 2036" consultation and engagement round which resulted in the 2012 "Better Stronger Local Government" reform package and the creation of the Independent Local Government Review Panel (ILGRP) under the chairmanship of Prof. Sansom.

In December 2011 TCorp was appointed to assist the Division of Local Government (DLG) and Treasury to provide a financial assessment framework to facilitate the Local Infrastructure Renewal Scheme (LIRS) initiative agreed to as part of the Destination 2036 package.

Concurrently, a "Local Government Act Taskforce" (LGATF) was created in August 2012 to review the Local Government Act 1993 and the City of Sydney Act 1988.

In March 2012 TCorp was tasked with an expanded brief to include additional financial assessment methodologies for all NSW Councils and 14 County Councils. Concepts of sustainability, benchmarking, a rating scale and forecasting are to be included in the revised assessment framework to inform the ILGRP's work.

The NSW government (the Hons. O'Farrell and Page) and the sector's representative association LGNSW (Rhoades and Donald) negotiated an "Intergovernmental Agreement to Guide NSW State-Local Government Relations on Strategic Partnerships" which was ratified in April 2013.

In early 2014 both the ILGRP and the LGATF delivered their final reports and these were released for comment.

Barry O'Farrell resigned as the Premier of NSW on 17 April 2014. Local Government Minister Don Page stepped down from his ministry on 23 April 2014.

The NSW Government released its response and made announcement of the "Fit for the Future" (FftF) reform package in September 2014. The response merges

the financial and legislative streams and formalizes the government's intention to introduce a comprehensive new Local Government Act in 2016/17.

The Minister for Local Government announces in April 2015 that the Independent Pricing and Regulatory Tribunal (IPART), with the assistance of John Comrie, has been appointed to act as the expert advisory panel to develop the final FftF assessment methodology and review Council submissions in response to the eligibility criteria.

At the end of June 2015, all but one of the 152 Councils in NSW lodge their submissions and proposals to the IPART assessment process. 142 of the submissions favor stand-alone preferences or improvement proposals that involve existing or new Joint Operation (JO) structures. Few Councils make submissions that contain merger options (four merger proposals involving nine Councils). The tribunal is due to provide its recommendations to the government in October 2015.

We would like to offer as our general observations on the process:

- It is by now clear that, what started out as a generally supported wide-ranging reform initiative by the newly elected conservative government, has evolved into a highly controversial package of reforms that lacks widespread support from either the sector or the constituency.
- It is apparent that the accumulated support and cooperation was largely lost sometime after Mr. O'Farrell's / Mr. Page's departures in April 2014 and subsequent to the release of the government's response to the ILGRP recommendations in September 2014 with the imprimatur of Mr. Baird and Mr. Toole.
- We noted that on 20 October 2014 Cr. Keith Rhoades, president of LGNSW was moved to publicly call on the premier and his government to honor the Intergovernmental Agreement of April 2013 and involve the sector in the further reform process.
- We note with some concern that the term of this Intergovernmental Agreement has expired on 30 June and that there appears to be no indication of interest from either party to renew or replace this important compact of cooperation.
- The former portions of the reforms arising from the "Better Stronger Local Government" round that dealt with the governance and service delivery components appear to enjoy near-universal support. This indicates the depth and amount of progress that can be achieved with successful and effective engagement of the sector stakeholders. These portions of the reform package are eminently salvageable and should be proceeded with.
- In contrast, the latter portion of the reform package, including the financial sustainability components, has not been welcomed. Starting with the appointment of IPART as both the developer of the final financial assessment methodology and the assessing body, followed by adoption of a highly contentious framework of categories and classifications and compounded by adherence to an unrealistic timeframe for consultation, analysis and reporting, this portion now sadly appears to have been botched.

- We point out that Prof. Sansom had cause to publicly criticize the NSW Government for the course that the further development of the reforms by IPART had assumed and that he saw this as being inconsistent with the report and recommendations as provided by the ILGRP. Prof. Sansom elected to lodge his own, dissenting submission to IPART in early June.
- It is noteworthy that TCorp was also dissatisfied with IPART's interpretation of the analysis and advice that had been developed by it to underpin a rigorous and even-handed approach to the financial assessment and management aspects of the reform. TCorp, likewise, elected to make a dissenting submission.
- By early 2015 it became increasingly clear that the Government's reform agenda was driven more by a desire to use the FftF package as a mechanism to reduce the overall number of Councils in the state and less by a motivation to follow through with a cohesive and perfectly worthwhile suite of reforms. Minister Toole was provided with every opportunity to reassure the public and the sector of the sincerity of the government's intentions but on May 15 he chose not to rule out forced amalgamations in response to a motion in Parliament.
- The Central Coast Greens are concerned that the FftF reform package has ceased to be the necessary and desirable long-term initiative that once enjoyed bipartisan political support, the support and the cooperation from the local government sector and the confidence of the community.
- In its present form and direction, we declare FftF a partisan and, therefore, moribund attempt at reform.

b) the financial sustainability of the local government sector in NSW, including the measures used to benchmark local government as against the measures used to benchmark State and Federal Government in Australia;

- The financial sustainability of local government entities in NSW is impaired by the known constraints on revenue, cost-shifting and lack of third-party co-funding certainty as evidenced in the many submissions lodged with the ILGRP during its consultation process. We see little recognition in the government's reform approach of the compounding effect of chronic revenue constraints that Councils have experienced for decades and are at the centre of the long-term sustainability issues.
- Compared to Councils in other Australian states, NSW local government has a lower average revenue base (before grants) but comparably higher cost structures. This situation is due to the combination of the NSW rate-pegging / rate capping regime and the cost shifting from, predominantly state-based, statutory requirements . NSW Councils currently have 121 regulatory functions, involving 309 separate regulatory roles, emanating from 67 State Acts, which are administered by approximately (!) 31 state agencies (IPART - "Local Government compliance and enforcement" May 2014). It is noteworthy that the government is just beginning to take this aspect into consideration with its' referral to IPART of 22 April (ToR : "Review of Regulatory and Compliance Burdens on Local Government" DPC, IPART to provide a final report in January 2016). It is highly questionable if

IPART should proceed to assess the efficiency performance of Councils in the current FftF round without having first completed this review.

- Local infrastructure maintenance, renewal and extension programs represent a significant proportion of recurring and capital expenditure for NSW Councils and the accumulated \$ 7b backlog of overdue infrastructure works remains a matter of concern. It is the current situation, where Councils have to rely on an uncertain project specific grants-based regime that is unsustainable in this respect and not the Councils themselves as the applicants. We recommend a re-visit of the LIRS scheme to address this issue with a stronger commitment than the current \$ 12m per annum.
- The financial measurement and benchmarking framework that is to be used to assess the present and future financial sustainability of Councils has received much attention and discussion. We note that almost every aspect of the currently envisaged framework is being contested for its validity, weighting and inclusion. The rationale of employing a pass / fail threshold to trigger eligibility or non-eligibility for preferential access to an incentive package, or else forced mergers, has received criticism from within the inner circle of reform contributors (e.g. TCorp). John Comrie, as a consulting contributor, offered as one of his misgivings that the assessment architecture was using indicators and scoring that were "more appropriate for the financial assessment of entities operating in the business world" (review of TCorp's report - 3 October 2014). We agree with Comrie in that many of the chosen yard sticks are ill-suited to an application in the public sector environment.
- For perhaps the most useful analysis of NSW local government financial sustainability with particular regard to the question of 'scale and capacity' we are indebted to the work of Peter Abelson and Roselyne Joyeux in their contribution "Smoke and Mirrors: Fallacies in the NSW Government's Views on Local Government Financial Capacity" to a forum of Local Government Professionals Australia in February 2015. We agree with their analysis that: "Lack of financial capacity is fundamentally a function of low income not of the size (population) of a local council area" and " Differences in expenditure per capita are explained by differences in income and service levels not by the size of the local community or the unit cost of services". We also favor the approach adopted by the Productivity Commission (Assessing Local Government Revenue Raising Capacity 2008): "the fiscal capacity of a council is best measured as the *aggregate after-tax income of the community* ... The higher is the fiscal capacity of a local government, the higher is its potential to raise revenue. " In other words: the socio-economic demographic of a Council area is the most reliable determinant of its' financial capacity and not population size or density. We question why this important dimension is not represented in IPART's FftF assessment framework as a major reference point for benchmarking.
- There is little doubt that the additional level of scrutiny, accountability and reporting that is envisaged to be applied to NSW local authorities over and above existing requirements under FftF far exceeds equivalent levels for the state and federal spheres. An example can be found in the detail of the Dept. of Premier and Cabinet's DLG-issued Integrated Planning and Reporting Manual, where e.g. under 2.5 "Addressing the Quadruple Bottom Line in the Community Strategic Plan" Councils are required to prepare systematic plans and reports

for social, environmental, economic and governance objectives and outcomes (notably in the absence of agreed or standard measurement criteria or units). While we agree that the IP&R framework represents the best and most useful aspects of the reforms so far, we concur with LGNSW that additional training and resources will be needed to enable local authorities to uniformly adopt and implement this package. The government has to date not come forward with a complementing financial assistance package that would help off-set at least initial Council-incurred additional costs associated with IP&R transition and implementation. Hence, the wave of applications for Special Rate Variations that we can see incorporated in the incoming round of FftF financial sustainability submissions to IPART.

c) the performance criteria and associated benchmark values used to assess local authorities in New South Wales;

- (see our comments under b))

d) the scale of local councils in New South Wales;

- We contend that, over time, Councils have either evolved to present scales by voluntary amalgamations or remained at inception scales in accordance with the sum total of civic, social and economic imperatives that were considered carefully and in common with the respective residents and ratepayers. In this regard, local authorities have historically done well to adapt organically to changing demographic and economic conditions, aside from the extraordinary issues that some rural communities are facing as a result of a declining population base. In considering the debate over FftF reforms, we remain unconvinced by the government's argument that a wholesale departure from established practice is required to ensure that new and completely arbitrary "scale and capacity to engage" criteria are met.

e) the role of the Independent Pricing and Regulatory Tribunal in reviewing the future of local government in New South Wales;

- We have no in-principle issue with IPART being the reviewing body. It would have been more appropriate to assign the assessment matrix design to a separate independent expert advisory body, specifically selected for this task. The present invidious situation, whereby the envisaged regulator is tasked with making the rules, is unfortunate and this could have been avoided with better preparation and planning on the part of the government.

f) ./.

g) costs and benefits of amalgamations for local residents and businesses;

- To illustrate the difficulties in formulating a predictive cost-benefit analysis we quote the submitted proposal document by Gosford City Council (GCC - Fit for the Future Proposal, 30 June 2015): *without a due diligence process, merger transition costs are difficult to estimate. IT and process alignment costs will be*

significant and critical to achieving efficiencies. Based on historical evidence, transition costs have been estimated at 1.4% of total expenditure, which would be \$ 37m for Gosford and \$ 31m for Wyong (\$ 68m in total). A review of past experience illustrates significant risks in amalgamations. Key risks include higher than estimated integration costs, lack of community and political support and non-achievement of expected benefits. In some cases, these have led to a halt in the reform process, as in Western Australia, or de-amalgamation, as in Queensland. In many other cases, councils, burdened with the cost without the expected benefits, have remained unfit. An amalgamation on its own will not generate sufficient financial savings (in present value terms) to completely bring assets up to a satisfactory condition. Modelling indicates that a further SRV of at least 3.5% (in addition to rate rise through equalisation) would be required to achieve this.

- We are conscious of the government's amalgamation incentive package that includes rate variation 'streamlining', access to a borrowing facility, priority funding and grants and eligibility for enhanced development planning powers. These items are undoubtedly attractive in their own right but appear not to have played a role in the resolutions of 142 Councils to remain 'stand-alone'. As these facilities are evidently available to the benefit of local government and the community there is no apparent reason to withhold these any longer from general availability to local authorities.

h) - see g)

i) ./.

j) ./.

k) - see g)

l) the role of co-operative models for local government including the 'Fit for the Futures' own Joint Organisations, Strategic Alliance, Regional Organisations of Councils and other shared service models, such as the Common Service Model;

- We acknowledge that the need and desirability of resource sharing is not a contentious topic in the local government sector and is consistent with established practice. The recent consultative and engagement work done to encourage more Councils to consider entering into or expanding their existing JO participation has made a positive contribution. As per the question of voluntary vs forced amalgamations, the government would do well to support and assist the established organic development process for JO's in preference to the imposition of mandatory structures, however incentivised. We are mindful that the principal role of inter-Council and regional entities should be to facilitate operational efficiencies, provide a structured discussion and agenda-setting forum and to assist with regional coordination. JO's and similar bodies should not have the capacity to subvert or usurp the legitimate democratic and statutory functions of the elected Council assemblies.

m) ./.

n) protecting and delivering democratic structures for local government that ensure it remains close to the people it serves;

- From a democratic perspective, reviewing the Local Government Act is only meaningful in combination with a review of the Environmental Planning and Assessment Act and the associated State Environmental Planning Policies. The gradual and stealthy disenfranchisement of resident's and state citizen's interests by preceding successive governments, particularly with regard to the planning system, needs to be addressed as part of any reform in this area.
- We support the democratic status quo at local government level as the minimum position and reject any envisaged changes to voting, representation, accountability or transparency as part of the FftF package that do not deliver real improvements to the existing arrangements.

o) ./.

p) any other matter;

- We encourage any person who would like to better understand this government's vision and conceptual approach to the current version of the local government reforms to consult the submission made by the NSW Business Chamber / Sydney Business Chamber (28 June 2013) in response to the ILGRP's 'Future Directions' paper.
- For guidance on current community attitudes to local government, we found the June 2015 study report by the Australian Centre for Excellence in Local Government (ACELG) "Why Local Government Matters" very helpful; the report can be found at: <http://www.acelg.org.au/file/2628/download>.

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4 July 2015